

## § 1.07-90

person liable may be found, for the institution of collection procedures under supervision of the district court, if the court has issued an order delegating such authority under section 636(b) of Title 28, United States Code.

[CGD 87-008a, 52 FR 17555, May 11, 1987]

### § 1.07-90 Criminal penalties.

(a) Prosecution in the Federal courts for violations of those laws or regulations enforced by the Coast Guard which provide, upon conviction, for punishment by fine or imprisonment is a matter finally determined by the Department of Justice. This final determination consists of deciding whether and under what conditions to prosecute or to abandon prosecution.

(b) Except in those cases where the approval of the Commandant is required, the Area, Maintenance & Logistics Command (MLC), and District Commanders are authorized to refer the case to the U.S. attorney. The Commandant's approval is required in the following cases where evidence of a criminal offense is disclosed:

(1) Marine casualties or accidents resulting in death.

(2) Marine Boards (46 CFR part 4).

(3) Violations of port security regulations (33 CFR parts 6, 121 to 126 inclusive).

(c) The Area, MLC, or District Commander will identify the laws or regulations which were violated and make specific recommendations concerning the proceedings to be instituted by the U.S. attorney in every case.

[CGD 78-82, 43 FR 54186, Nov. 20, 1978, as amended by USCG-2001-9286, 66 FR 33639, June 25, 2001]

### § 1.07-95 Civil and criminal penalties.

(a) If a violation of law or regulation carries both a civil and a criminal penalty, the Area, MLC, and District Commanders are authorized to determine whether to institute civil penalty proceedings or to refer the case to the U.S. attorney for prosecution in accordance with § 1.07-90.

(b) When the U.S. Attorney declines to institute criminal proceedings, the Area, MLC, or District Commander de-

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cides whether to initiate civil penalty proceedings or to close the case.

[CGD 78-82, 43 FR 54186, Nov. 20, 1978, as amended by USCG-2001-9286, 66 FR 33639, June 25, 2001]

### § 1.07-100 Summons in lieu of seizure of commercial fishing industry vessels.

(a) As used in this section, the following terms have the meanings specified:

(1) *Commercial fishing industry vessel* means a fishing vessel, a fish processing vessel, or a fish tender vessel as defined in 46 U.S.C. 2101 (11a), (11b), or (11c), respectively.

(2) *Personal use quantity* means a quantity of a controlled substance as specified in 19 CFR 171.51.

(b) When a commercial fishing industry vessel is subject to seizure for a violation of 21 U.S.C. 881(a)(4), (6), or (7); of 19 U.S.C. 1595a(a); or of 49 U.S.C. App. 782 and the violation involves the possession of a personal use quantity of a controlled substance, the vessel shall be issued a summons to appear as prescribed in subpart F of 19 CFR part 171 in lieu of seizure, provided that the vessel is:

(1) Proceeding to or from a fishing area or intermediate port of call; or

(2) Actively engaged in fishing operations.

[CGD 89-003, 54 FR 37615, Sept. 11, 1989]

## Subpart 1.08—Written Warnings by Coast Guard Boarding Officers

AUTHORITY: 14 U.S.C. 633; 49 CFR 1.46(b).

### § 1.08-1 Applicability.

(a) The regulations in this subpart apply to certain violations of the following statutes and regulations for which Coast Guard boarding officers are authorized to issue written warnings instead of recommending civil or criminal penalty procedures under subpart 1.07 of this part:

(1) 46 CFR 25.05 whistles or other sound producing devices;

(2) 33 CFR part 175, subpart B and 46 CFR subpart 25.25, Personal Flotation Devices.

(3) 46 CFR 25.35 backfire flame control;